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09/661,581	09/14/2000	Judith E. Schwabe	SUN-P4176	9180

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EXAMINER

DAS, CHAMELI

ART UNIT

PAPER NUMBER

2122

19

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/661,581

Applicant(s)

SCHWABE, JUDITH E.

Examiner

C.DAS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-77 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14, 15, 17, 18 6) ☐ Other: \_\_\_\_\_

1. This action is in response to the argument and amendment filed on 12/12/03.
2. In view of the Terminal Disclaimer filed on 12/12/02, the double patenting rejections of the claims made in the earlier office action is hereby withdrawn.
3. Claims 1-77 are rejected under 35 U.S.C. 102(a) as being anticipated by Chan et al, (Chan), US 6,005,942.

### ***Specification***

4. The abstract of the disclosure is objected to because the abstract contains more than 150 words in length. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

5. Claims 71, 74 and 77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 71, 74 and 77 contain the trademark/trade name "Java". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and the goods themselves. Thus, a trademark or

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trade name does not identify or describe the goods associated with the trademark to trade name. In the present case, the trademark/trade name is used to identify/describe a virtual machine and, accordingly, the identification/description is indefinite.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-77 are rejected under 35 U.S.C. 102(a) as being anticipated by Chan et al, (Chan), US 6,005,942.

***As per claim 1***, (Chan, Fig 3A, col 4 lines 59-67, col 7 lines 22-25, col 10 lines 27-30, col 19 lines 25-30, col 18 lines 30-40, col 3 lines 30-40, col 16 lines 7-15, col 11 lines 1-5).

***As per claim 2***, (Chan, col 24, lines 25-35).

***As per claim 3***, (Chan, col 16, lines 6-15).

***As per claim 4***, (Chan, col 16, lines 6-15).

***As per claim 5***, (Chan, col 16, lines 6-15 and Chan, col 16, lines 6-15).

***As per claim 6***, (Chan, col 24, lines 25-35 and Chan, col 16, lines 6-15).

***As per claim 7***, (Chan, col 16, lines 6-15).

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**As per claim 8,** (Chan, col 24, lines 25-35 and Chan, col 16, lines 6-15).

**As per claim 9,** (Chan, Fig 3A, col 4 lines 59-67, col 7 lines 22-25, co 10 lines 27-30, col 19 lines 25-30, col 18 lines 30-40, col 3 lines 30-40, col 16 lines 7-15).

**As per claim 10,** (Chan, col 15 lines 26-30, col 20 lines 42-50).

**As per claim 11,** (Chan, col 15 lines 26-30, col 20 lines 42-50).

**As per claim 12,** (Chan, col 5 lines 25-30).

**As per claim 13,** (Chan, col 22 lines 1-7).

**As per claim 14,** (Chan, col 24, lines 25-35).

**As per claim 15,** (Chan, col 16, lines 6-15).

**As per claim 16,** (Chan, col 16, lines 6-15).

**As per claim 17,** (Chan, col 16, lines 6-15 and Chan, col 16, lines 6-15).

**As per claim 18,** (Chan, col 24, lines 25-35 and Chan, col 16, lines 6-15).

**As per claim 19,** (Chan, col 16, lines 6-15).

**As per claim 20,** (Chan, col 24, lines 25-35 and Chan, col 16, lines 6-15).

**As per claim 21,** (Chan, col 24, lines 25-35 and Chan, col 16, lines 6-15, Abstract).

**As per claim 22,** (Chan, col 16, lines 6-15, abstract).

**As per claim 23,** (Chan, col 16, lines 6-15, abstract).

**As per claim 24,** (Chan, col 16, lines 6-15, abstract).

**As per claim 25,** (Chan, col 15 lines 26-30, col 20 lines 42-50).

**As per claim 26,** (Chan, col 5 lines 25-30).

**As *pr claim 27***, post-issuance installer (col 4 lines 55-62), untrusted (col 21 lines 50-60, col 24 lines 54-60). For the rest of the limitations see the rejection of claim 9 above.

**For *claims 28-44***, see the rejections of claims 10-26 and for untrusted (col 21 lines 50-60, col 24 lines 54-60).

***Claim 45 is*** the program storage device claim corresponding to the method claim 1 and is rejected under the same reason set forth in connection of the rejection of claim 1 above.

***Claim 46 is*** the program storage device claim corresponding to the method claim 9 and is rejected under the same reason set forth in connection of the rejection of claim 9 above.

***Claims 47- 50*** are program storage device claim corresponding to the method claims 10-13 and are rejected under the same reason set forth in connection of the rejection of claims 10-13 above.

***Claims 51-52*** are program storage device claims corresponding to the method claims 11-12 and are rejected under the same reason set forth in connection of the rejection of claims 11-12 above.

***Claim 53 is*** the program storage device claim corresponding to the method claim 27 and is rejected under the same reason set forth in connection of the rejection of claim 27 above.

**Claims 54-57** are program storage device claims corresponding to the method claims 28-30 and are rejected under the same reason set forth in connection of the rejection of claims 28-30 above.

**Claim 58 is** the system claim corresponding to the method claim 1 and is rejected under the same reason set forth in connection of the rejection of claim 1 above.

**Claim 59 is** the system claim corresponding to the method claim 9 and is rejected under the same reason set forth in connection of the rejection of claim 9 above.

**Claims 60-63** are system claims corresponding to the method claims 10-13 and are rejected under the same reason set forth in connection of the rejection of claims 10-13 above.

**Claim 64 is** the system claim corresponding to the method claim 27 and is rejected under the same reason set forth in connection of the rejection of claim 27 above.

**Claims 65-68** are system claims corresponding to the method claims 28-31 and are rejected under the same reason set forth in connection of the rejection of claims 28-31 above.

**As per claim 69,** (Chan, Fig 3A, col 4 lines 59-67, col 7 lines 22-25, col 10 lines 27-30, col 19 lines 25-30, col 18 lines 30-40, col 3 lines 30-40, col 16 lines 7-15, col 11 lines 1-5, col 8 lines 30-35).

**As per claim 70,** (Chan, abstract).

**As per claim 71,** (Chan, col 8 lines 30-40).

**As per claim 72**, (Chan, Fig 3A, col 4 lines 59-67, col 7 lines 22-25, col 10 lines 27-30, col 19 lines 25-30, col 18 lines 30-40, col 3 lines 30-40, col 16 lines 7-15, col 11 lines 1-5, col 8 lines 30-35, col 7 lines 21-30, col 7 lines 41-45, col 15 lines 36-45, col 8 lines 30-40).

**As per claim 73**, (Chan, abstract).

**As per claim 74**, (Chan, col 8 lines 30-40).

### **Conclusion**

7. The prior art made or record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Software verification apparatus, US 5022028 A

TITLE: Host system elements for an international cryptography framework, US 6178504

TITLE: Streaming media search and continuous playback system of media resources located by multiple network addresses, US 6389467 B1

TITLE: Method and apparatus for verifying a software configuration of a distributed system, US 6360334 B1

TITLE: Method for providing remote software technical support, US 6205579 B1

TITLE: Automatic software downloading from a computer network, US 6347398 B1

TITLE: System, method, and computer program product for uninstalling computer software, US 6668289 B2

TITLE: Method and apparatus for creating and deploying smaller Microsoft Windows applications for automatic configuration of a computing device, US 6405309 B1

TITLE: Computer manufacturing system architecture with enhanced software distribution functions, US 6202070 B1



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TITLE: Apparatus and method for error free loading of a programmable non-volatile memory over a datalink, US 5925140 A

TITLE: System and method for computer based testing, US 5565316 A.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 703-305-4552. The fax number for this group is (703) 872-9306.

An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.

  
**CHAMELI C. DAS**  
**PRIMARY EXAMINER**

Chameli C. Das

Primary Patent Examiner

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4/2/04